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Attorney for Plaintiff  
Lenora Moses, as Personal Representative  
of the Estate of Delbert Ward

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

LENORA MOSES, as Personal  
Representative of the Estate of DELBERT  
WARD,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No.: 3:10-CV\_\_\_\_\_

**COMPLAINT**

COMES NOW the Plaintiff, LENORA MOSES, as Personal Representative of the Estate of DELBERT WARD, by and through her attorney, Gregory J. Grebe and for her cause of action against defendants, hereby allege as follows:

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I.

This cause of action arises under the Federal Tort Claims Act, 28 U.S.C. § 1346, 2401 and 2671 *et. seq.*

II.

Plaintiff, resides in Anchorage, Alaska.

III.

Defendant is responsible for the health care delivered by Maniilaq Health Center in Kotzebue, Alaska because Maniilaq Health Center is part of the U.S. Department of Health and Human Services ("HHS"). Under 25 U.S.C. § 450f, the United States of America is the proper defendant for the allegations in this Complaint.

IV.

Plaintiff submitted a Form 95 Claim for Damage, Injury or Death with claims office at the U.S. Department of Health and Human Services on or about February 24, 2010.

V.

That the claim was also presented under the Early Offer to Resolve a Federal Tort Claims act on June 8, 2010 after invitation by the Department of Health and Human Services on May 25, 2010.

VI.

The 90-day period for resolving this claim through the early offer program ran on

August 23, 2010. More than six months have elapsed from the initial filing.

VII.

Failure to resolve this case by August 23, 2010 constitutes a final denial of the claim pursuant to 28 U.S.C. § 2675.

VIII.

On or about December 2007 Delbert Ward (deceased) went to the Maniilaq Health Center in Kotzebue, Alaska for treatment of diarrhea and related health concerns.

IX.

Delbert Ward (deceased) went to the Maniilaq Health Center on December 28, 2007; January 9, 2008; January 13, 2008; January 15, 2008 and January 23, 2008.

X.

The treatment received by Delbert Ward at the Maniilaq Health Center at the time of all visits did not meet the standard of care in a number of ways, which will be shown at trial.

XI.

After lengthy hospitalizations in the Alaska Native Medical Center in Anchorage, Alaska and the St. Elias Specialty Hospital, Delbert Ward died on November 15, 2008.

XII.

During Delbert Ward's hospitalizations in Anchorage he was often unconscious or sedated or otherwise unable to communicate clearly. During this period Delbert Ward,

during periods of partial lucidity, was upset that he was hospitalized. However, Delbert Ward did not know and could not articulate why a healthcare provider might be responsible for his condition.

XIII.

Because Delbert Ward was often in ICU or on pain medications or in CCU or unconscious and unable to articulate a cause of action no one could proceed on his behalf.

XIV.

After Delbert Ward's death on November 15, 2008 his sister Lenora M. Moses applied to be appointed Personal Representative of the Estate of Delbert Ward. The probate court granted Lenora M. Moses' petition on May 25, 2009.

XV.

Lenora M. Moses signed a contingency fee contract with Gregory J. Grebe on June 26, 2009.

XVI.

Review of this case was delayed when multiple requests for medical records concerning the treatment of Delbert Ward at Maniilaq Health Center resulted in noncompliance or partial compliance. In other words, requests for the medical records resulted in part of the records being sent to the office of Gregory J. Grebe and part of the records were not sent.

XVII.

On February 5, 2010 the office of Gregory J. Grebe received an opinion in the Delbert Ward case from a doctor who opined that Delbert Ward's treatment at the Maniilaq Health Center fell below the standard of care.

XVIII.

Pursuant to the discovery rule plaintiff would have two years from February 5, 2010 to file a lawsuit for injuries to Delbert Ward, or two years from his death on November 15, 2008.

XIX.

Various doctors, nurses, and healthcare providers at defendant's clinic and emergency room were negligent in the treatment of Delbert Ward and their treatment of Delbert Ward fell below the standard of care. That is, they either lacked the degree of knowledge and skill or failed to exercise the knowledge or skill by health care providers in the respective field or speciality.

XX.

Specifically, doctors or others at the Maniilaq Health Center failed to properly diagnose Delbert Ward's condition because of inadequate examination, inadequate or non-existent testing, inadequate diagnosis and inadequate treatment. As a result, Delbert Ward's condition was not properly diagnosed or treated until it was too late.

XXI.

Defendant is responsible for the acts described above.

XXII.

As a result of the acts or omissions the negligence proximately resulted in serious and unnecessary injury to Delbert Ward including medical bills, lost wages, and pain and suffering. This cause of action survives Delbert Ward.

XXIII.

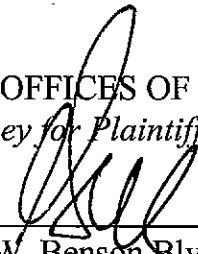
Defendant's negligence also caused the wrongful death of Delbert Ward for which Lenora M. Moses seeks recovery.

WHEREFORE, plaintiff seeks compensatory damages as stated on the Form 95 previously submitted.

Plaintiff also seeks interest costs and other relief as the court deems appropriate under the circumstances.

DATED this 11 day of October, 2010.

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